IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Appeal From Order No. 836 of 2006

The Oriental Insurance Company Limited
Having its Registered Office at Oriental House
At A-25/27 Asif Ali Road
New Delhi through Divisional Manager
Divisional Office
Bhotia Parao
Nainital Road, Haldwani ... Appellant

Vs

1. Shri Beer Singh Bohra S/o Sri Khim Singh
   R/o Village & Post Pangla
   Thana & Tehsil Dharchula
   District Pithoragarh
2. Smt. Duri Devi W/o Sri Beer Singh Bohra
   R/o Village & Post Pangla
   Thana & Tehsil Dharchula
   District Pithoragarh
3. Shri Raju Rawat S/o Sri Laxman Singh Rawat
   R/o Raju Travells
   Gandhi Chowk
   Dharchula Bazar, Tehsil Dharchula
   District Pithoragarh
   (owner of Jeep No. UA05/1591) ... Respondents

Shri V.K. Kohli, learned Senior Advocate assisted by Sri I.P. Kohli, learned counsel for the appellant.

Hon'ble B.C. Kandpal, J.

This appeal has been filed under Section 173 of the Motor Vehicle Act, 1988 by the Insurance Company (Insurer of the offending vehicle Jeep No. UA05/1591) against the judgment and award dated 07.11.2006 passed by M.A.C.T./District Judge, Pithoragarh in M.A.C. Case No. 44 of 2003 Shri Beer Singh Bohra & another Vs Shri Raju Rawat & another.

2. Brief facts of the case are that on 18.06.2003, Sri Narendra Singh Bohra reached by side of Tawaghat Pangla Road after finishing his labour work with his colleagues at

05:30 p.m. Suddenly a Jeep No. UA05/1591 hit Narendra Singh and his companions. The said jeep was being driven in a very rash and negligent manner by its driver. In the said accident, Narender Singh and his associates died. At the time of the accident, Narender Singh was aged about 19 years and earning was 4,000/- per months as labourer out of which, the deceased used to contribute Rs. 3,000/ for his family. Therefore, the claimants filed petition before the Tribunal concerned for Rs. 6,68,000/- as compensation.

3. Sri Raju Rawat who is the owner of the vehicle filed written statement and denied the allegation of the claim petition due to want of knowledge and alleged that on the date of the accident his driver was driving the vehicle cautiously and by the side of the road. The owner has further alleged that the said vehicle was insured with Oriental Insurance Company Limited and he had all the papers of the said vehicle regarding registration certificate, permit and etc.

4. The Oriental Insurance Company Limited also contested the claim petition and filed its separate written statement. It has stated that the claimants had claimed excessive amount of compensating without any legal basis. It has further pleaded by the Insurance Company that the owner of the vehicle in question did not possess the valid documents regarding registration certificate, insurance of the vehicle and the driver did not valid driving licence at the time of the accident.

5. On the basis of the pleadings of the parites, the Tribunal framed following issues:-

1. Whether the accident in question took place on dated 18.06.2003 at time 05:30 p.m. on place tawaghat Pangla motor marge of Gasku Nala (Naughatia Gadhera) on account rash and negligent driving of the driver of vehicle No. U.A. 05/1591 due to which Shri Narendr Singh Bohara died?
2. Whether the driver of the vehicle No. UA05/1591 was holding a valid and effective driving licence on the date of the accident? If so, its effect?
3. As to what amount of compensation, if any, the claimants are entitled to recover?
4. Whether the vehicle in question was being plied in contravention of the terms of Insurance Policy?

6. Thereafter, both the parties adduced their evidence in support of their case.

7. The Tribunal after considering the entire evidence available on record and after having considered the arguments advanced by the parties the court below decreed the calim petition against the Oriental Insurance Company Ltd. and awarded an amount of Rs. 1,04,500/- along with interest @ 8% per annum from the date of filing of the petition to the claimants vide judgment and award dated 07.11.2006.

8. Feeling aggrieved by the aforesaid judgment and award passed by the Tribunal concerned, the Oriental Insurance Company Ltd. filed this appeal.

9. Heard Sri V.K. Kohli, learned Senior Advocate assisted by Sri I.P. Kohli, learned counsel for the appellant and peruse the record.

10. Learned counsel for the appellant has submitted that the deceased was travelling as a gratuitous passenger in a jeep and in view of the aforesaid circumstance, the Insurance Company is not liable to pay any compensation awarded by the Claim Tribunal.

11. I fail to appreciate the argument advanced by the learned counsel for the appellant. The Tribunal has framed issue No. 3 in this regard and has recorded a categorical finding that the deceased is one of the pedestrian who met with an accident and succumbed to the injuries.

12. In view of the aforesaid circumstance, I do not find any ground to interfere in the impugned judgment and award. The appeal lacks merit and is liable to be dismissed.

13. Accordingly, the appeal is dismissed in-limine.

14. The impugned judgment and award dated 07.11.2006 passed by M.A.C.T./District Judge, Pithoragarh in M.A.C. Case No. 44 of 2003 Shri Beer Singh Bohra & another Vs Shri Raju Rawat & another is hereby confirmed.

(B.C. Kandpal, J.)

16.12.2006
ASWAL